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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,568	07/02/2001	James E. Dickens	010281	9702

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KIRKPATRICK & LOCKHART LLP
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PITTSBURGH, PA 15222

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/897,568	DICKENS, JAMES E.	
	Examiner Steven M Marsh	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 August 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the second office action for U.S. Application 09/897,568 for a Cable Feed Bushing and Method of Installing a Cable Through a Wall or Other Structure filed by James E. Dickens on July 7, 2001.

Claim Rejections - 35 USC § 102

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,983,598 to Rosan, Sr. et al. Rosan, Sr. et al. discloses a cable support apparatus with a body portion (14) and a head portion (16) with a first surface that is integrally attached to the body portion. There is a passageway extending through the body and head portion, and there is a spiral thread on an exterior surface of the body portion. There is a second surface opposite the first surface and the head portion is provided with at least two holes (34) that two diametrically opposed installation holes on the second surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-5 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of U.S. Patent 3,073,206 to Rudolph. Rosan, Sr. et al. does not disclose a pair of holes on the head of the cable support and a installation tool with engagement projections protruding therefrom corresponding to the holes, whereby a rotational force is applied with the tool on the bushing to cause the bushing to be screwed into a hole in a wall. Rudolph discloses a screw (10) with a body portion that has an exterior surface with threads and a head portion (16). The head portion has installation formations in the form of a pair of diametrically opposed holes (18). The screw can be screwed into a wall by using an installation tool (20) with engagement protrusions (22) and providing a rotational force on the screw, thereby allowing the screw to be rotated in either direction. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a head portion on the cable support apparatus taught by Rosan, Sr. et al. such as the head portion taught by Rudolph for the purpose of providing a simplified means to secure the apparatus into a structure through rotation of an appropriate installation tool.

Claims 12-14 are all related to providing paint or wall paper to the head of the bushing and exterior surface for aesthetic purposes. Although Rosan, Sr. et al. in view of Rudolph does not disclose those features, they are a matter of design preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of Rudolph, in further view of Tschanz. Rosan, Sr. in view of

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Rudolph does not disclose a pre-existing hole in a structure for receiving the cable support. Tschanz discloses a structure (12) with a pre-existing aperture (14) for receiving the cable support. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a pre-existing hole in a structure, as taught by Tschanz, for facilitating the insertion of the cable support taught by Rosan, Sr. in view of Rudolph.

Claims 16-18, and 20-22 are all related to providing paint or wall paper to the head of the bushing and exterior surface for aesthetic purposes. Although Rosan, Sr. et al. in view of Rudolph, in further view of Tschanz, does not disclose those features, they are a matter of design preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of Rudolph, in further view of Applicant's disclosure. Rosan, Sr. does not disclose a cable support apparatus with a conical shaped body portion. However, page 7, lines 21-23 of Applicant's specification indicate that the body portion can also be cylindrical shaped (as taught by Rosan Sr.) and the shape of the body seems to merely be a matter of engineering preference. The thickness of the head portion is also a matter of engineering preference. Rosan, Sr. does not specifically disclose a head portion and body portion made of a polymeric material. However, page 11, line 22 of Applicant's specification indicates that the bushing could also be made of metal and the material used seems be a matter of engineering preference, as well.

Response to Arguments

Applicant's arguments filed August 7, 2002 have been fully considered but they are not persuasive. Applicant claims that Rosan, Sr. does not teach the inclusion of installation holes in the second surface of the head. However, Rosan does teach installation holes (34) in the second surface of the head. In response to Applicant's argument that "the special adapter used on the device taught by Rudolph would not be contemplated to be used on the device taught by Rosan Sr. because it is not meant to be removed", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Applicant's arguments that the inserts from Rudolph could not be incorporated into the device taught by Rosan, Sr. are not persuasive, because Rudolph is being used to provide a teaching that diametric holes can be utilized in the head of a installation device, to allow the device to be rotated into a structure by a tool.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

SM
Steven M. Marsh
October 16, 2002

Anita King
ANITA KING
PRIMARY EXAMINER